IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WP(C).No. 27445 of 2007(P)

PETITIONER:

NORBERT LAWRENCE,
S/O LAWRENCE FERNANDEZ,
T.C.71/3320, NEAR FOOD CORPORATION OF INDIA,
KOCHU THOPPU, VALLAKADAVU P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:
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1. STATE BANK OF TRAVANCORE,
REPRESENTED BY ITS AUTHORISED OFFICER/
CHIEF MANAGER, REGION-1, ZONAL OFFICE,
THIRUVANANTHAPURAM.

2. KOLASTICA ANTONY, W/O SILVERY ANTONY,
T.C.35/299, EVERSHINE, THOPPINAKAM,
VALIYATHURA, THIRUVANANTHAPURAM-695008.

3. SILVERY FERNANDEZ ANTONY,
S/O SILVERY FERNANDEZ, -DO- -DO-.

4. JOSEPHIN LAWRENCE @ JESPINFERNANDEZ,
W/O LATE LAWRENCE FERNANDEZ, -DO- -DO-.

5. CLETUS FERNANDEZ, S/O LAWRENCE
FERNANDEZ, -DO- -DO-.

6. SELIN JOSEPH, D/O LAWRENCE FERNANDEZ,
-DO- -DO-.

7. SHALLET, D/O LAWRENCE FERNANDEZ,
-DO- -DO-.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.) - SC FOR SBT
SRI.SAJI VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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ANTONY DOMINIC,J.

W.P (C) No. 27445 of 2007

Dated this the 26th day of September, 2007

J U D G M E N T

The prayer in this writ petition is for quashing Exhibit-P3 and for directing the 1st respondent not to initiate any proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act till a final decision on the partible right of petitioner and his brother over the secured asset by a competent Civil Court is rendered. According to the Learned Counsel for the petitioner there is also an order of injunction passed by the Third Additional Munsiff's Court, Thiruvananthapuram in O.S.984/2007 and despite the prohibitory injunction, the Bank has initiated proceedings under the Act.

2. Learned Senior Counsel for the Bank on the other hand points out that the Act imposes a prohibition on the Munsiff's Court to pass an order of injunction restraining the Bank from taking over the secured asset. Though this objection has been taken by the Bank, but, however, the court below has not rendered a decision, complains the Learned Counsel.

3. Prima facie there is a force in the submission raised by the Learned Counsel for the Bank. But, however, the fact remains that the injunction order is still in force. Therefore, until that order is vacated it is not permissible for the Bank to continue the proceedings against the secured asset.

4. Therefore, I dispose of this writ petition directing that the Bank will keep in abeyance the proceedings until the Civil Court varies Exhibit-P2 order. The Munsiff's Court will expedite the proceedings and decide on the objection raised by the Bank against Exhibit-P2 order, as expeditiously as possible. The 1st respondent will produce a copy of this judgment before the Third Additional Munsiff's Court, Thiruvananthapuram, for compliance.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007